K

1949

File No. Village Panchayat-II/490(R)
Legal Department
B BRANCH

Subject:— Notifications under the Bombay Village Panchayat Act 1920

1949
P-4
(2)

128-13

File No. Village Panchayat-II/490(R)

Gen. 194

Office of the R.L.A.

Section 4(1) of the Bombay Village Panchay[a]t Act, 1933, provides that whenever the Provincial Government, after making such enquiry as may be prescribed, is satisfied that any local area comprising a revenue village or a group of revenue villages or hamlets forming part of a revenue village has a population of not less than 2,000, it shall by notification in the Official Gazette declare such local area to be village. Under sub-section (2) of Provincial Government may, after consultation with the District Local Board, by like notification at any time (a) include within any village or exclude from any village any local area or otherwise alter the limits of any village. It would thus be observed that it is any particular local area which is to be declared as a village for the purposes of Act. The local area may comprise a revenue village or even hamlets forming part of a revenue village. Prior consultation with the local board is necessary before any area is included or excluded from such village. The fact that any additional area subsequently came to be included in a revenue village, the local area of which was originally declared to be a village under the Act, would not automatically attach that additional area

to the village for the purposes of the Act. Two things are necessary before such additional area is included in the village for the purposes of ~~xxx~~ the Act, viz., prior consultation with the District Local Board and a notification. The section is concerned with areas rather than ~~xxxxx~~ with villages and their nomenclatures; that is so because the inclusion of any area in the village for the purposes of the Act carries with it its own consequences. The local board may have its own views about attaching any particular area to any particular village under the Act. That being so, it would be necessary in such cases to issue a notification as contemplated by sub-section (2) of section 4 ~~section 4~~ after consultation with the District Local Board. For the sake of absolute accuracy, the notification No. 5568/33 dated the 30th September 1940 may be amended by using either the words "the area formerly comprised in the revenue village of Esar or the words "the area comprising the hamlet of Esar forming part of Sakri Village" for the words "the area comprising the Revenue village of Esar".

Sd/- .....
28/4.

Remembrancer of Legal Affairs.

U.R. to H & L.C.D. No. 4685 dated the 29th April

GJT. 26.6. 4 c.

Local Department.

The view taken by H. & L.G.D. that under section 112(1) of the Act the Assistant or Deputy Collectors can be authorised to exercise the powers under clause (b) of sub-section (1) of section 108 of the Act is correct. But the view that such authorization can be given with retrospective effect is not correct. The authorization, if given, will take effect from the date on which the notification is issued and no rules in virtue of such authorization can be made by Assistant or Deputy Collectors with retrospective effect. Neither the Collector can make such rules with retrospective effect. The only feasible course is to ask that Collector to make the necessary rules in virtue of the Government Notification No. 2565/33, dated 20-1-1948, or to authorise freshly Assistant or Deputy Collectors to make rules under clause (b) of sub-section (1) of section 108 and to ask them to make necessary rules.

It may however be pointed out that sub-section(2) of section 108 provides that the rules to be made under sub-section (1) shall be subject to the condition of previous publication. This provision being of a mandatory character must be complied with.

Subject to the above observations the notificatio at page 11 ante as amended is in order.

Sd: J.R. Dhurandhar.
30/9.
Additional Secretary to Government.

U.R. to H. & L.G.D. No.154-L, dated the 30th September 1949.

GJT. 26.6. 4 c.

NOTIFICATION

Health and Local Government Department,

Bombay Castle, September 1949.

The Bombay Village Panchayats Act, 1933.

No.2565/33 :- In exercise of the powers conferred by sub-section (1) of section 112 of the Bombay Village Panchayats Act, 1933 (Bom.VI of 1933), the Government of Bombay is pleased to authorise all the Assistant Collectors and the Deputy Collectors to exercise the powers to make rules under clause (b) of sub-section (1) of Section 108 of the said Act.

By order of the Governor of Bombay,

Secretary to Government.

GJT: 26.6: 4 cd.